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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,631

07/28/2003

Fred Monroe

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MBHB/TRADING TECHNOLOGIES
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EXAMINER

AKINTOLA, OLABODE

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/628,631	Applicant(s) MONROE ET AL.	
	Examiner OLABODE AKINTOLA	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11 and 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/26/2008 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites “wherein the first electronic exchange comprises”. This limitation is not incomplete and thus not clear.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2, 4-8, 10-11, 22-27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ankireddipally et al (USPAP 200200116205) (hereinafter referred to as Ankireddipally) in view of Marynowski et al (US 6912511) (hereinafter referred to as Marynowski).

Re claims 1, 10 and 22: Ankireddipally teaches the method comprising: receiving from a trader a first order message having an order at a first electronic exchange (Fig. 11, RN {10}), and a market event request (section 0012, “*transaction definition*”), the market event request including a condition and an associated predetermined action to be taken on behalf of the trader, the action including sending an order for a second tradeable object to a second electronic exchange (Fig. 11, RN {500}, abstract, section 0089, “*transaction definition stored in data memory (not shown) or loaded into the memory of CX server 10*”); detecting the condition at the first electronic exchange (sections 0087, 0089, “*the domain of primary CX 10 does not include a CXC registered to perform the operation designated in operation request 546*”); in response to detecting the condition, sending a second order on behalf of the trader from the first electronic

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exchange to the second electronic exchange, wherein the second tradeable object is different from the first tradeable object (section 0089), and such that the action of sending the order is taken on behalf of the trader by the first electronic market itself exchange using a microprocessor executing one or more instructions (section 0089).

Ankireddipally does not explicitly teach that the order includes a quantity of a tradeable object at a first price; and the first and second electronic exchanges having computerized matching process configured to match orders of others for the tradeable objects, wherein tradeable objects matched at the first exchange are different than tradeable objects matched at the second exchange.

Marynowski teaches these concepts and/or features at col. 25, lines 34-54. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify and apply Ankireddipally's invention to an electronic exchange markets as taught by Marynowski whereby primary CX 10 and 500 represent first and second electronic markets 100 and 700 respectively. Orders that cannot be matched in one of the markets can be sent to the other as exemplified in the Ankireddipally RN {542, 544 and 546}, thereby making the system more efficient.

Re claim 2: Ankireddipally teaches wherein sending is performed in response to determining that the condition is satisfied (section 0087).

Re claim 4: Ankireddipally teaches the step wherein the condition comprises at least a portion of the first order being filled (section 0089).

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Re claim 5: Ankireddipally teaches receiving a market event request message at the first electronic exchange that establishes a condition (sections 0012, 0087).

Re claim 6: Ankireddipally teaches wherein the condition is in the form of a lookup table (sections 0012, 0087).

Re claims 7-8, 23-25 and 30: Ankireddipally teaches sending a message from the first electronic exchange to the second electronic exchange instructing the second electronic exchange to modify the order sent on behalf of the trader, wherein the action of sending the message is taken on behalf of the trader by the first electronic exchange itself, wherein the modify message is sent on behalf of a trader when a condition has been satisfied (section 0087).

Re claims 11: Ankireddipally teaches wherein the first electronic exchange comprises software running at a point of access that is outside of the electronic exchange (section 0089).

Re claims 26-27: Ankireddipally does not explicitly teach wherein the condition is based on news events or market events external to the first electronic exchange. However, news and market events external to an exchange are well known factors that influence trading in electronic exchanges as admitted by applicant's own disclosure (see Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to include these features. One would

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have been motivated to do so such that upon receiving market information, appropriate actions can be taken by the system including adjusting or canceling the transaction.

Re claim 29: Ankireddipally does not explicitly teach wherein the second order is intended to hedge risk based on a position in the first tradeable object.

Marynowski teaches this concept and/or feature at col. 25, lines 34-54. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify

Ankireddipally such that the second order is intended to hedge risk based on a position in the first tradeable object as taught by Marynowski. Including this functionality facilitates buying and selling securities and/or other items traded on the exchange to hedge at least some of the risk associated with the securities and/or items (col. 25, lines 36-38), thereby making the system more efficient.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ankireddipally in view of Marynowski as applied to claim 1 above, and further in view of Hauk et al. (USPAP 20030126068) (hereinafter referred to as Hauk).

Re claim 9: Ankireddipally in view of Marynowski are as discussed above. Ankireddipally in view of Marynowski does not explicitly teach the step wherein the electronic exchange comprises a matching engine that matches bids and offers for a market according to a first-in-first-out (FIFO) matching algorithm. Hauk teaches the step wherein the electronic exchange comprises a matching engine that matches bids and offers for a market according to a first-in-

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first-out (FIFO) matching algorithm (section [0066]: “*An algorithm for trade matching, based on prorated or FIFO trading match scheme could be incorporated*”). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ankireddipally/Marynowski to include the step wherein the electronic exchange comprises a matching engine that matches bids and offers for a market according to a first-in-first-out (FIFO) matching algorithm as taught by Hauk. One would have been motivated to do this so that orders are matched in order they are received.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ankireddipally in view of Marynowski as applied to claim 1 above, and further in view of Wilton et al. (US 6519574) (hereinafter referred to as Wilton).

Re claim 28: Ankireddipally in view of Marynowski are as discussed above. Ankireddipally in view of Marynowski does not explicitly teach spread trade strategy. Wilton teaches spread trade strategy (col. 3, lines 55-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ankireddipally in view of Marynowski to include spread trade strategy as taught by Wilton. One would have been motivated to do this because spread trading allows parties to trade one commodity for another commodity, thereby enhancing the functionality of the system.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olabode Akintola/
Examiner, Art Unit 3691